



APPENDIX

The Act of June 28, 1940, 54 Stat. 676, as amended by the Act of May 31, 1941, 55 Stat. 236, and by Title III of the Second War Powers Act, 1942, 56 Stat. 176 (50 U. S. C. App., Supp. III, 633), provides in part:

SEC. 2 (a) (2): * * * Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material or of any facilities for defense or for private account or for export, the President may allocate such material or facilities in such manner, upon such conditions and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense.

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SEC. 2 (a) (5): Any person who willfully performs any act prohibited, or willfully fails to perform any act required by, any provision of this subsection (a) or any rule, regulation, or order thereunder, whether heretofore or hereafter issued, shall be guilty of a misdemeanor, and shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

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SEC. 2 (a) (8): The President may exercise any power, authority, or discretion conferred on him by this subsection (a), through such department, agency, or officer of the Government as he may direct and in conformity with any rules or regulations which he may prescribe.

By a series of Executive Orders (9280 (7 F. R. 0179), 9322 (8 F. R. 3807), 9334 (8 F. R. 5423)) the President authorized the War Food Administrator

to exercise the President's powers under this Act in respect to food, and further authorized the Administrator to delegate any part of such powers to employees of the Department of Agriculture. Food Distribution Order No. 79 (8 F. R. 12426), promulgated by the Administrator on September 7, 1943, established a system of regulation for handlers of milk. The pertinent provisions of this order are as follows:

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(c) *Administration.*—(1) The Director [of Food Distribution] shall designate a market agent for each milk sales area or for a combination of several such areas and shall fix the amount of his salary. Insofar as he performs functions for the United States, the market agent will act under his appointment as collaborator without compensation from the United States. The market agent shall be subject to removal by the Director at any time, and all his acts shall be subject to the continuing right of the Director to disapprove at any time. Upon such disapproval, his acts shall be deemed null and void except insofar as any other person has acted in reliance thereon or in compliance therewith prior to such disapproval.

(2) The market agent is authorized and directed to:

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(x) Investigate and report to the Director any violation of this order;

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(xii) Pay out of the funds collected by him as market agent the cost of his bond and of the bonds of his employees, his own compensation and that of his employees, and all other expenses necessarily incurred by him in the performance of his duties hereunder;

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(4) Each handler shall pay the market agent, within 20 days after the close of each calendar month, after the date of appointment of the market agent, an assessment upon the milk, milk byproducts, and cream, or any such portion thereof as may be specified by the Director, delivered by such handler during each such calendar month. This assessment shall be fixed, and may be modified from time to time, by the Director to meet the expenses which the Director finds will be necessarily incurred by the operations of this order in connection with an order issued pursuant here-to by the Director: *Provided, however,* That the assessment shall not exceed \$0.03 per hundredweight of milk, milk equivalent of cream, and skim milk equivalent of milk by-products.

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(h) *Violations.*—The War Food Administrator may suspend, revoke, or reduce the quota of any person who violates any provision of this order, may prohibit by order such person from receiving, or using milk, cream, or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that any such person be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

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On October 4, 1943, this order was extended to the Cleveland area by Food Distribution Order 79-3

(8 F. R. 13367), the pertinent provisions of which are as follows:

(n) *Expense of administration.*—Each handler shall pay to the market agent, within 20 days after the close of each calendar month an assessment of \$0.01 per hundredweight of each of milk, cream, skim milk, buttermilk, flavored milk drinks, beverages containing more than 85 percent of skim milk, and skim milk equivalent of cottage, pot, or baker's cheese delivered during the preceding quota period and subject to quota regulations under the provisions hereof.

(o) *Violations.*—The market agent shall report all violations to the Director together with the information required for the prosecution of such violations, except in a case where a handler has made deliveries in a quota period in excess of a quota in an amount not to exceed 5 percent of such quota, and in the succeeding quota period makes deliveries below that quota by at least the same percent.

